

**CITY OF GOODYEAR
CITY COUNCIL ACTION FORM**

SUBJECT: Resolution authorizing the City to enter into a Development Agreement with Wal-Mart Stores, Inc. for reimbursement of certain public infrastructure.	STAFF PRESENTER: Harvey Krauss, Community Development Director COMPANY CONTACT: Sean Lake, Pew and Lake
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RECOMMENDATION:

Council adopt Resolution No. 03-902 authorizing the City Manager to execute and the City Clerk to attest to a Development Agreement with Wal-Mart Stores, Inc. for reimbursement of certain off-site public improvements in the vicinity of a site plan for a Wal-Mart Supercenter Store at the southwest corner of Interstate 10 and Estrella Parkway.

COMMUNITY BENEFIT:

1. In conjunction with the development of a Supercenter Store and other retail users at I-10 and Estrella Parkway, Wal-Mart will advance the construction of certain off-site public infrastructure that will benefit other properties in the vicinity, as well as design, construct, and install traffic signalization and other interchange improvements. These public improvements will facilitate other commercial development in the general area, and the improvements to the ADOT right-of-way at Interstate 10 and Estrella Parkway will benefit the traveling public.
2. Funding for the off-site public improvements will be reimbursed to Wal-Mart from local sales tax revenue generated by the Supercenter Store. The City will seek reimbursement of the costs for the infrastructure benefiting other developers through the cost recovery ordinance as their properties develop in the future. In addition, the City will collect transportation development fees for traffic signalization at Interstate 10, as well as collect water development fees for the 16-inch water line within Estrella Parkway, from other developers.

DISCUSSION:

A Wal-Mart Supercenter has been proposed on 33 acres at the southwest corner of Interstate 10 and Estrella Parkway. The commercial zoning for this property was approved by the City Council on January 28, 2002. The zoning for this commercial development requires that the site plan be considered by the Planning Commission and City Council. Council action on this site plan has been scheduled for the December 15, 2003 meeting.

As part of the development for the proposed Supercenter, Wal-Mart is required to design, install and construct certain off-site public improvements. A portion of these

improvements will benefit other properties as well as the general public. The purpose of this Development Agreement with Wal-Mart is to identify the public infrastructure that has a community-wide benefit, and provide a method for reimbursing Wal-Mart for advancing the cost of these public improvements.

Off-site public infrastructure that will be designed and installed by Wal-Mart will be reimbursed to Wal-Mart from local sales tax revenue generated from the new Supercenter Store. Wal-Mart will be reimbursed from 50% of the transaction privilege taxes collected until Wal-Mart is fully reimbursed for these infrastructure costs. Utilizing the "Cost Recovery" ordinance recently adopted by the City Council, Staff will then initiate the process to seek reimbursement of those infrastructure costs benefiting adjacent properties. The City will receive reimbursement of these costs when the adjacent properties initiate development. An example would be the south half improvements for the Roosevelt Road right-of-way. Costs associated with the south half right-of-way improvements would be required of the property to the south when development is proposed. Prior to this work being initiated, Staff must establish a benefited area, notify benefited property owners of their proportionate share of the costs, schedule a hearing for consideration of this cost allocation method, and if approved, the City would receive reimbursement from benefited property owners as development occurs. The cost recovery ordinance provides the City with the statutory authority and process for obtaining this reimbursement.

Infrastructure costs that are subject to reimbursement have been identified in Exhibit B of the proposed Agreement. Wal-Mart will be reimbursed for actual costs of the public infrastructure after appropriate documentation is submitted to the City and the City has accepted the public improvements.

The following is a summary of the off-site public improvements that Wal-Mart will be installing:

- Landscaping of drainage basin in ADOT Right-of-Way
- 4-Way Traffic Signals at I-10 and Estrella Parkway
- ADOT ramp improvements at I-10 and Estrella Parkway
- Extension of a 16-inch water line in Estrella Parkway from the Safeway Shopping Center to the Wal-Mart property.
- Extension of a 12-inch sanitary sewer line from the Safeway Shopping Center to Roosevelt Street.
- Median landscaping and streetlights in Estrella Parkway adjacent to the Wal-Mart property.
- Traffic signal installation at the intersection of Roosevelt Street and Estrella Parkway.

- Public improvements, such as paving, utilities, landscaping and storm drainage improvements, in Roosevelt Street along the Wal-Mart frontage.

Wal-Mart will be installing the public improvements to City standards (or ADOT standards if applicable), and providing the City a warranty on the improvements for a period of two years. Since there will be reimbursement of the cost of this public infrastructure, Wal-Mart will be required to comply with the public bidding requirements for those improvements that are subject to reimbursement, and certify that the public bidding process has been complied with prior to reimbursement by the City.

Community Development Impact

Community Development Staff will be providing the plan review for the off-site public improvements, as well as on-site improvements, and inspecting the public infrastructure for conformance with City standards and specifications. The Building Safety staff of Community Development will perform plan review and building inspections for construction of the Supercenter Store and other retail stores on the subject property.

Fire Impact

The Fire Department will provide fire and emergency medical services to the Wal-Mart Supercenter and other retail stores on the 33-acre site.

Police Impact

The Police Department will provide patrol and other police services to the Wal-Mart Supercenter Store, and other retail users at this development. On-site security services are typically provided by Wal-Mart.

Public Works Impact

The Wal-Mart Supercenter and other retail stores are located within the City's water and sewer service area, and thus, Public Works will be responsible for handling the operational aspects of utility service to the site.

FISCAL IMPACT

The estimated cost of public infrastructure that is eligible for development fee credits is \$1,432,899. Of this total, Staff estimates that the Developer will have a total of \$387,939 of eligible development fee credits from transportation and water development fees required for the Supercenter and other retail pads. Thus, the remaining community-wide benefits subject to reimbursement to Wal-Mart totals \$1,044,960. These public improvements, which generally include the signalization within the ADOT right-of-way and the 16-inch water line

extension from the Safeway Center to the Wal-Mart development on Estrella Parkway, are eligible for transportation and water development fee credits, respectively, since this work was included in the development fee calculations. Wal-Mart will be given credits based upon the actual cost of this infrastructure. The cost of this infrastructure exceeding the amount of available development fee credits would be reimbursed to Wal-Mart from local transaction privilege taxes. This amount of overage is estimated to be \$1,044,960.

Public improvements benefiting adjacent properties (i.e. south half of Roosevelt Street, sewer line extension from Safeway Center property to Wal-Mart property, and median improvements in Estrella Parkway) are estimated to be \$820,980. These costs would be reimbursed to Wal-Mart from local sales tax revenues generated from the Supercenter Store. The City would be reimbursed from other developers and landowners in the immediate vicinity benefiting from these improvements as the adjacent properties are proposed for development. The mechanism for the City to recoup these costs is through the cost recovery ordinance.

Public infrastructure costs not benefiting other property owners, and not subject to development fee credits would be the City's costs. This would include the landscaping of an ADOT drainage retention basin along Estrella Parkway adjacent to Wal-Mart, and erosion control work on the off-ramps/on-ramps in the ADOT right-of-way. The estimated cost of these improvements is \$51,219. These costs would also be reimbursed through transaction privilege sales taxes generated by the Supercenter Store. The following is a summary of the estimated costs for this reimbursement Agreement:

Eligible Development Fee Credits	\$1,432,899
Amount of Credits to Wal-Mart	<u>387,939</u>
Reimburable Costs to Wal-Mart	\$1,044,960 *
Eligible for Cost Recovery	\$ 820,980 **
City Costs Eligible for Reimbursement	\$ 51,219
<i>Total Estimated Reimburable Amount</i>	<u>\$1,917,159</u>
<i>Costs reimbursed to City from others</i>	<u>\$ 820,980</u>
<i>Net Amount of Reimbursements</i>	<u>\$1,096,179</u>

*City to recapture these costs from Future Development Fees from others on a citywide basis.

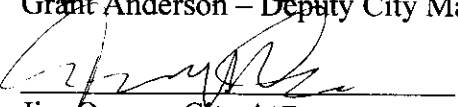
**Reimbursed to City by Adjacent Developers through the Cost Recovery Ordinance.

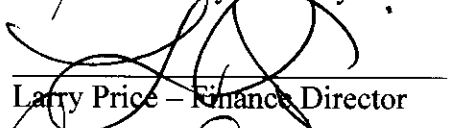
The Wal-Mart Supercenter will generate approximately 12 million dollars in local sales tax revenues for the City in its first 10 years of operation, or an estimated \$1.2 million dollars in annual local sales tax revenue. The total estimated reimbursement to Wal-Mart for advancing necessary public infrastructure is \$1,917,159. The Development Agreement provides for a 50% reimbursement to Wal-Mart from local sales tax revenues generated from the Supercenter Store. Based upon these revenue and expenditure assumptions, Wal-Mart would be fully reimbursed within approximately 3 years after the certificate of occupancy is issued for the Supercenter Store.

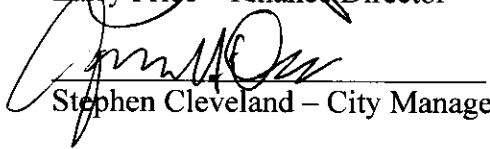
Staff anticipates that commercial development east of Estrella Parkway and south of Roosevelt Street will occur in the near future if the Wal-Mart Supercenter Store is approved. The City will recoup the lion share of the \$1.9 million of estimated public infrastructure costs through the payment of development fees on adjacent properties, as well as through the cost recovery ordinance.

REVIEWED BY:

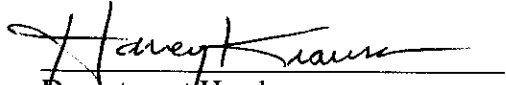

Grant Anderson – Deputy City Manager


Jim Oeser – City Attorney


Larry Price – Finance Director


Stephen Cleveland – City Manager

PREPARED BY:


Department/Head

RESOLUTION NO. 03-902

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING A DEVELOPMENT AGREEMENT WITH WAL-MART STORES, INC., AN ARKANSAS CORPORATION, FOR REIMBURSEMENT OF CERTAIN OFF-SITE PUBLIC IMPROVEMENTS BEING INSTALLED IN CONJUNCTION WITH THE DEVELOPMENT OF A WAL-MART SUPERCENTER AT THE SOUTHWEST CORNER OF INTERSTATE 10 AND ESTRELLA PARKWAY WITHIN THE CITY OF GOODYEAR; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED, by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

WHEREAS, Wal-Mart Stores, Inc., an Arkansas corporation, ("Developer") is proposing to develop a Wal-Mart Supercenter and other retail uses on 33 acres of land at the southwest corner of Interstate 10 and Estrella Parkway ("Property") in the City of Goodyear; and,

WHEREAS, the Property was zoned General Commercial (C-2 District), which permits a Wal-Mart Supercenter Store, with the adoption of Ordinance No. 2001-738 by the Goodyear City Council on January 28, 2002; and,

WHEREAS, the Developer has submitted a Site Plan, Building Elevations and Comprehensive Signage Package, as required for the development of the Property; and,

WHEREAS, the Developer, in conjunction with the development of the Wal-Mart Supercenter Store on the Property, is required to design, install and construct certain specific off-site public improvements; and,

WHEREAS, since a portion of these off-site public improvements will be oversized or meet a community-wide demand, the City will be providing development fee credits and reimbursements to the Developer for said public improvements; and,

WHEREAS, the City and Developer are desirous of reaching agreement on reimbursement of certain off-site public improvements in order to facilitate commercial development on the Property in the future; and,

WHEREAS, the Developer and the City of Goodyear have reached an agreement on the reimbursement of certain off-site public improvements after the Developer has completed said public improvements to Goodyear's standards and specifications; and,

WHEREAS, the Developer and the City of Goodyear are desirous of entering into an agreement, and this Agreement is intended to be a "Development Agreement" pursuant to A.R.S. §9-500.05.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Goodyear, Maricopa County, Arizona, as follows:

Section 1. That the Development Agreement with Wal-Mart Stores, Inc., a copy of the Agreement in its final form is attached hereto, and, by reference, made a part hereof, has been submitted to the City for adoption.

Section 2. That this Development Agreement with Wal-Mart Stores, Inc. is intended to be a "Development Agreement" pursuant to A.R.S. §9-500.05.

Section 3. That it is in the best interests of the City of Goodyear that this Development Agreement be adopted.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Goodyear, Maricopa County, Arizona, as follows:

Section 4. That this Resolution shall become effective as provided by law.

PASSED AND ADOPTED this 15th day of December 2003.

James M. Cavanaugh, Mayor

ATTEST:

Dee Cockrum, City Clerk

APPROVED AS TO FORM:

James A. Oeser, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Dee Cockrum, being the duly appointed, qualified City Clerk of the City of Goodyear, Arizona, certify that the foregoing Resolution No. 2003-902, passed and adopted at a City Council Meeting of the Council of the City of Goodyear, Maricopa County, Arizona held on the ____day of _____, 2003, at which a quorum was present and, by a _____vote, voted in favor of said ordinance.

Given under my hand and seal, this ____ day of _____, 2003.

City Clerk

AMENDING ARTICLE 2, SECTION 1.B OF THE ZONING ORDINANCE OF THE CITY OF GOODYEAR. AMENDED BY ORDINANCE NO. _____, PASSED BY THE CITY COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, THIS ____ DAY OF _____, 19____.

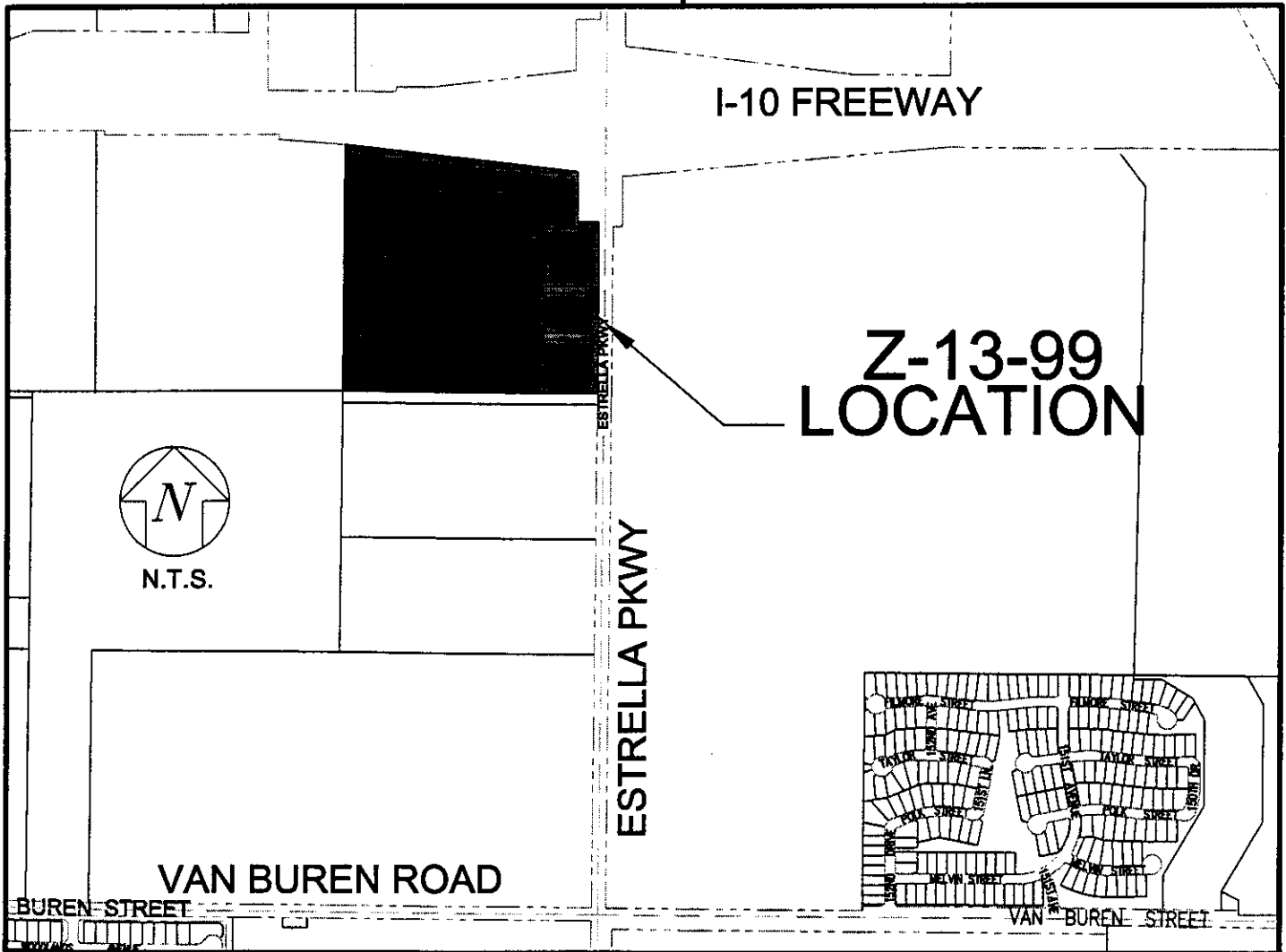
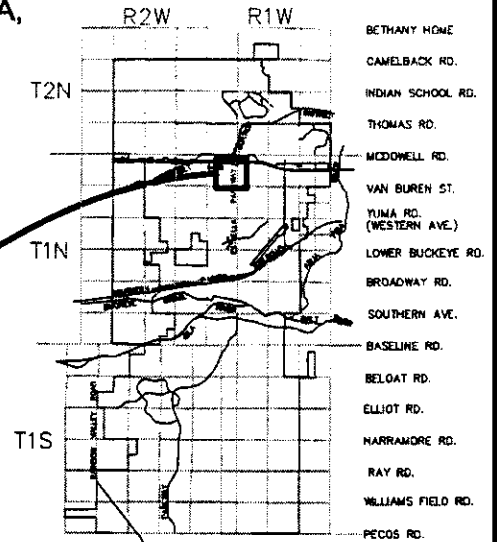
MAYOR

CITY CLERK

SUBJECT PROPERTY:

A Portion of Section 6, Township 1 North, Range 1 West

PERROVILE RD.
(187 TH AVE.)
OTRUS RD.
(179 TH AVE.)
COTTON LN.
(171 ST AVE.)
SARVAL AVE.
(163 RD AVE.)
PEBBLE CREEK PKWY.
(155 TH AVE.)
BULLARD AVE.
(147 TH AVE.)
LITCHFIELD RD.
(139 TH AVE.)
D'ARST RD.
(131 ST AVE.)



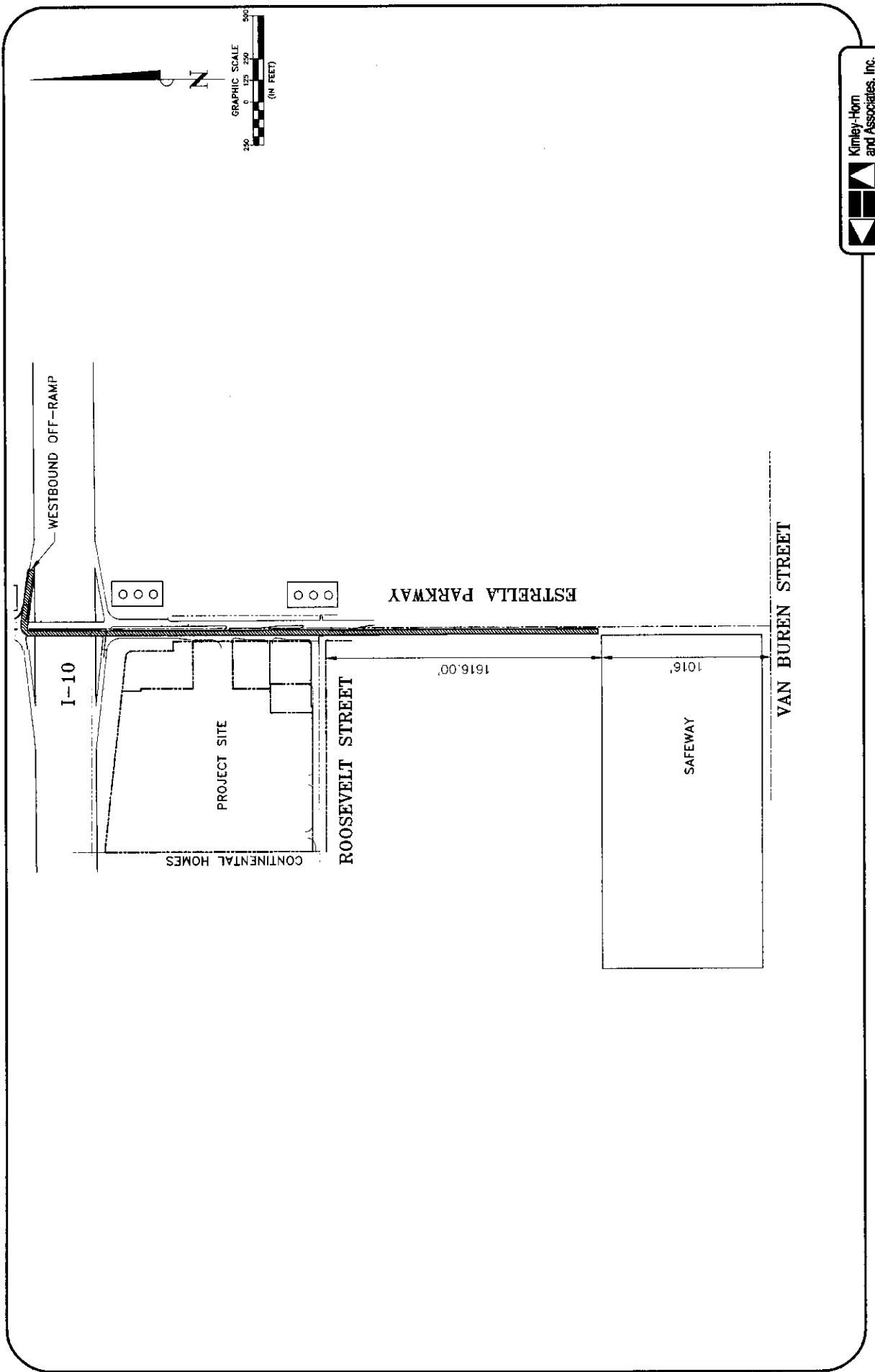
SOURCE: CITY OF GOODYEAR G.I.S.

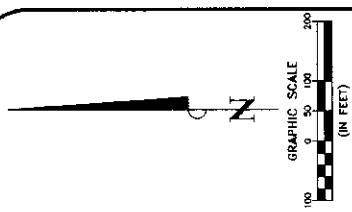
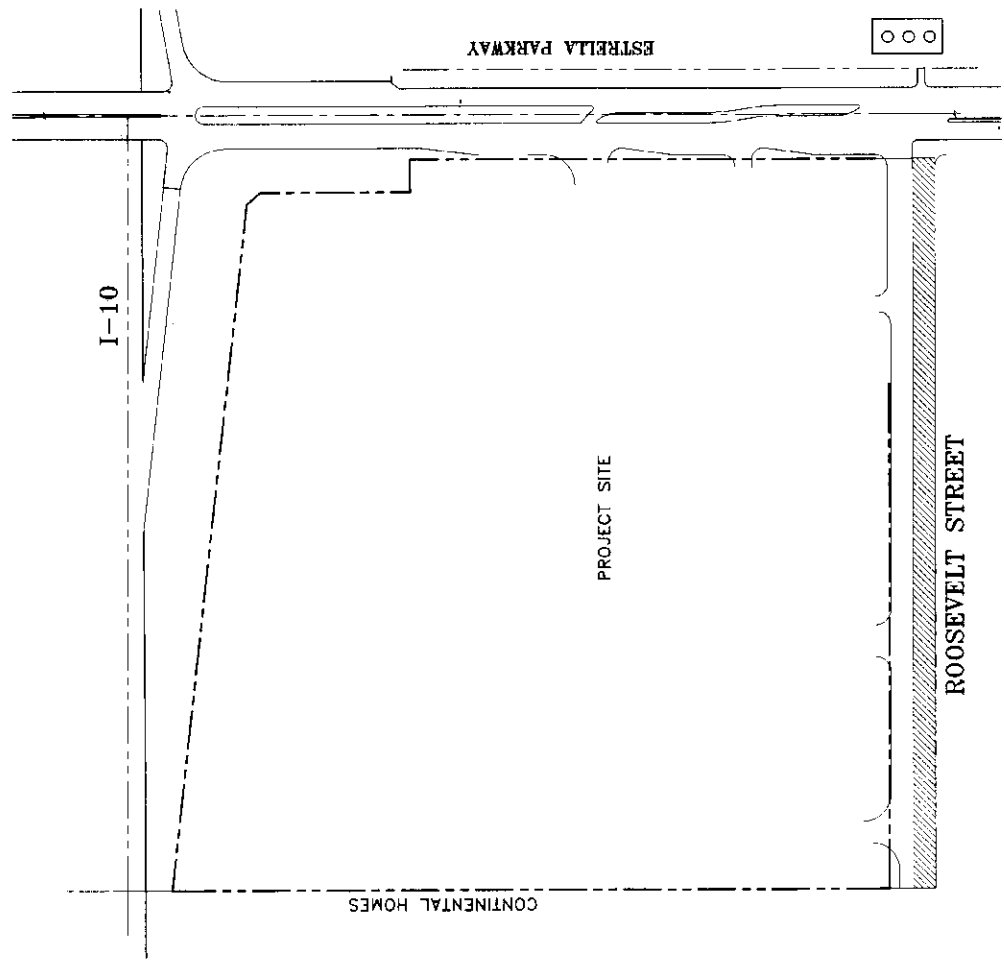
CITY OF GOODYEAR, AZ - REZONE CASE # Z-13-99

EXHIBIT
NO. 1

REZONE PROPERTY FROM AG TO C-2

DATE:
OCT. '99





When recorded, please return to:
CITYCLERK
CITY OF GOODYEAR
190 NORTH LITCHFIELD ROAD
GOODYEAR, AZ 85338

- DEVELOPMENT AGREEMENT -
(REIMBURSEMENT)

THIS DEVELOPMENT AGREEMENT made and entered into by and between the **CITY OF GOODYEAR**, a MUNICIPAL CORPORATION hereinafter referred to as **GOODYEAR**; and **WAL-MART STORES, INC.**, an Arkansas corporation, hereinafter referred to as **DEVELOPER**:

RECITALS:

WHEREAS, DEVELOPER intends to develop certain real property in Goodyear, Arizona, as is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference ("Property"), and

WHEREAS, GOODYEAR and DEVELOPER are entering into this Agreement pursuant to Arizona Revised Statutes § 9-500-05 and **GOODYEAR** shall require, in conjunction with the development of Property, the design, installation and/or construction of certain specific offsite improvements ("Public Improvements") as identified on **GOODYEAR's** approved Site Plan for Goodyear Gateway, and

WHEREAS, said development of Property creates a fundamental need for Public Improvements, and

WHEREAS, said Public Improvements are also required to promote the public interest and for the purpose of ensuring that **GOODYEAR'S** standards for transportation, utility service, and infrastructure are maintained, and

WHEREAS, because the Public Improvements entail oversizing to meet regional as well as local demands, **DEVELOPER** seeks **GOODYEAR'S** proportional financial participation ("City Share") in the additional costs incurred beyond **DEVELOPER'S** fair share, and

WHEREAS, Arizona State Statutes mandate that when City Share for a single development is estimated to exceed one hundred thousand dollars (\$100,000.00), all Public Improvements that qualify for City Share shall be offered through the public bidding process as defined by **GOODYEAR City Code**, including **DEVELOPER'S** execution of a contract with the lowest qualified bidder ("Low Bidder") at unit prices as identified through the bid process.

NOW, THEREFORE, for and in consideration of the mutual promises or portions herein contained, it is agreed as follows:

AGREEMENTS:

1. DEVELOPER'S PUBLIC IMPROVEMENTS OBLIGATIONS:

Subject to **GOODYEAR'S** Public Improvement obligations as described in this Development Agreement and Exhibit "B" attached hereto and incorporated herein by reference, **DEVELOPER** shall be responsible for the design, installation and/or construction of all Public Improvements, as specifically assigned to **DEVELOPER** as identified in Exhibit "B" (**DEVELOPER'S UNIT COSTS**).

2. REIMBURSEABLE COSTS OBLIGATION:

Subject to **DEVELOPER'S** Public Improvements obligations as described in this Development Agreement and Exhibit "B" attached hereto and incorporated herein by reference, **GOODYEAR** shall provide Reimbursement for the advanced costs of the Public Improvements to **DEVELOPER** for specific costs relating to the design, installation and/or construction of said Public Improvements as identified on **GOODYEAR** approved engineering drawing(s) which shall be reviewed and approved by **GOODYEAR** prior to the commencement of construction, specifically assigned to **GOODYEAR** as identified in Exhibit "B."

3. GOODYEAR agrees:

3.1 To financially reimburse **DEVELOPER'S** actual cost(s) for said Public Improvements (as prescribed in this Development Agreement and Exhibit "B")(herein referred to as "Reimbursable Costs") and remit full payment to **DEVELOPER** from local sales tax originated, levied and received by **GOODYEAR** on transactions generated by the retail business activities generated by the Supercenter Store. Such transaction privilege taxes in this Agreement are limited exclusively to local sales taxes received by **GOODYEAR** from the Arizona Department of Revenue (ADOR). Such reimbursement shall be limited to no more than fifty per cent (50%) of such transaction privilege taxes received by **GOODYEAR** to be paid on a quarterly basis until such time as **DEVELOPER** is fully reimbursed for all Reimbursable Costs as provided in this Agreement. For the purposes of this Agreement, Project Revenues refer to **GOODYEAR'S** transaction privilege tax revenues with current rates of 1.2 percent (1.2%) for single item purchases greater than Two Thousand Dollars (\$2,000) or 2.0 percent (2.0%) for all other items, of which rates are subject to City Council amendments to the City's tax code.

3.2 For the purpose of the Reimbursable Costs to the **DEVELOPER**, **GOODYEAR** shall commence reimbursable payments from applicable received transaction privilege taxes after receipt of the final Certificate of Occupancy by the **DEVELOPER** for the Supercenter Store and within forty-five (45) days of

receipt by **GOODYEAR** of the next monthly ADOR revenue report. Thereafter, reimbursement payments shall be made by **GOODYEAR** to the **DEVELOPER** on a quarterly basis based upon a calendar year.

3.3 To assume ownership of all Public Improvements and to control and maintain same as a part of **GOODYEAR** facilities, after completion, approval and acceptance.

3.4 **DEVELOPER** shall be eligible for development impact fee credits for public infrastructure to the extent allowed by City Code and approved by the City Engineer or his designee upon submittal of appropriate documents by **DEVELOPER**. Specifically, these impact fee credits will apply to the I-10 off ramps and traffic signal improvements against the prevailing Goodyear transportation impact fees. **GOODYEAR** shall also grant impact fee credits for the sixteen (16") inch water line and associated appurtenances against prevailing Goodyear water development fees. Once the impact fee credits have been exhausted, the balance of the cost for the public improvements shall be reimbursed to **DEVELOPER** from local sales tax as provided in Section 3.1 of this Agreement.

3.5 To accept responsibility for the Reimbursable Costs in those costs and items specifically identified as Public Improvements in this Development Agreement and assigned to **GOODYEAR** as identified in Exhibit "B." Should the actual costs for reimbursable public improvements on any item exceed 10% of estimated costs evidenced in Exhibit "B", **DEVELOPER** shall notify **GOODYEAR** of such differences. Any costs greater than 10% of the estimated Reimbursable Costs detailed in Exhibit "B" shall only be paid to the **DEVELOPER** provided that **DEVELOPER** timely notify **GOODYEAR** of such changes in cost and those changes are approved by the City Engineer or his designee.

3.6 **GOODYEAR** agrees to work with **DEVELOPER** in good faith to obtain all necessary encroachment permits for the improvements anticipated within Arizona Department of Transportation (ADOT) rights of way pursuant to Exhibit "B".

4. **DEVELOPER** agrees:

4.1 To comply with all aspects of **GOODYEAR'S** policies and procedures for the Development Agreement and **GOODYEAR'S** Engineering Design Standards for said Public Improvements as prescribed in this Development Agreement and Exhibit "B".

4.2 To provide **GOODYEAR** with copies of all contract(s), invoices, lien releases, and proof-of-payment that clearly and accurately document the unit costs **DEVELOPER** paid for said Public Improvements. **DEVELOPER** shall also submit to **GOODYEAR** the "as built" drawings for the Public Improvements for

approval by the City Engineer or his designee.

4.3 To design, install, and construct the Public Improvements described in Exhibit "B" to **GOODYEAR** standards and specifications for conveyance of said Public Improvements to **GOODYEAR** and/or ADOT.

4.4 To prepare the construction plans necessary for the installation and construction of Public Improvements described in Exhibit "B".

4.5 To prepare the public improvement plans necessary for the ADOT encroachment permit(s).

4.6 **DEVELOPER** agrees to pay up to \$20,000 for **GOODYEAR** to hire outside legal counsel if necessary should any aspect of this proposed Development Agreement and/or any aspect of this development and/or Site Plan be challenged by a third party through the Courts and/or referendum process.

5. Miscellaneous:

5.1 This Development Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

5.2 Time is of the essence with respect to the performance of each of the obligations, covenants and agreements contained in this Development Agreement.

5.3 In the event that either party defaults in the performance of its obligations contained in this Development Agreement, the non-defaulting party shall pursue mediation. If a mutually acceptable solution cannot be achieved, the non-defaulting party shall have the right to pursue all remedies available at law and at equity, according to the laws of the State of Arizona.

5.4 This Development Agreement shall be binding upon the parties hereto and their respective successors and assigns. **DEVELOPER** may not assign its interests hereunder to any successor-in-interest of all or any portion of the Property without the prior written consent of **GOODYEAR**, which consent shall not be unreasonably withheld; provided, however, that any such assignment shall include a written agreement of the assignee to perform **DEVELOPER'S** obligations as set forth in this Development Agreement.

5.5 The individuals executing this Development Agreement on behalf of the parties hereto represent that they have authority to execute this Development Agreement on behalf of such parties, and represent that upon execution, this Development Agreement shall be binding and no further action is or shall be necessary to make the Development Agreement enforceable in its entirety.

5.6 Nothing in this Development Agreement shall be deemed as creating a joint venture, partnership, or any other cooperative or joint arrangement between **DEVELOPER** and **GOODYEAR**.

5.7 Following **GOODYEAR'S** acceptance of Public Improvements, **DEVELOPER** agrees to provide a warranty for all Public Improvements constructed within the City rights-of-way for a period of two (2) years.

5.8 **DEVELOPER** acknowledges that changes requested by **GOODYEAR** shall only be done by formal written approval through the City Manager. Developer further acknowledges that any changes requested either by Developer or **GOODYEAR** might require Developer to put all Improvements through the public bidding process. Where necessary, it is **GOODYEAR'S** responsibility to review the bid process to ensure that this Agreement is in compliance with Arizona's public procurement law (A.R.S. §§ 34-201 et. seq.) and applicable **GOODYEAR** City Code provisions.

5.9 Default. Failure or unreasonable delay by either party to perform or otherwise act in accordance with any term or provision hereof shall constitute a breach of this Agreement and, if the breach is not cured within thirty (30) days after written notice thereof from the other party (the "Cure Period"), shall constitute a default under this Agreement; provided, however, that if the failure is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then the party shall have such additional time as may be necessary to perform or comply so long as the party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation. Any notice of a breach shall specify the nature of the alleged breach and the manner in which said breach may be satisfactorily cured, if possible. In the event a breach is not cured within the Cure Period, the non-defaulting party shall have all rights and remedies which may be available under law or equity, including without limitation the right to specifically enforce any term or provision of this Agreement and/or the right to institute an action for damages.

5.10 Notices and Filings. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by certified United States Mail, postage pre-paid, return receipt requested to:

The City: City of Goodyear
190 North Litchfield Road
Goodyear, AZ 85338
Attn: City Manager

With a copy to: City of Goodyear
190 North Litchfield Road

Goodyear, AZ 85338
Attn: City Attorney

Developer: Wal-Mart Stores, Inc.
Sam M. Walton Development Complex
2001 S.E. 10th Street
Bentonville, AR 82812-6489
Attn: Michael Tomlin

With a copy to: Pew & Lake, PLC
10 West Main Street
Mesa, AZ 85201
Attn: Sean B. Lake

Or to such other address or addresses as may hereafter be specified by notice given by any of the above for itself to the others. Any notice or other communication directed to a party to this Agreement shall become effective upon the earliest of the following: (a) actual receipt by that party; (b) delivery to the address of the party, addressed to the party; or (c) if given by certified or registered U.S. Mail, return receipt requested, 36 hours after deposit with the United States Postal Service, addressed to the party.

5.11 Good Standing: Authority. Each of the parties represents and warrants to the other (a) that it is duly formed and validly existing under the laws of Arizona; (b) that it is authorized to conduct business in Arizona with respect to the Developer, or a municipal corporation, with respect to the City; and (c) that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each such individual is signing.

5.12 Severability. If any provision of the Agreement is declared void or unenforceable by a court of competent jurisdiction, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect if the remaining provisions permit the parties to obtain the practical benefits of the arrangements contemplated by this agreement. Otherwise either party may terminate this Agreement. If any applicable law or court of competent jurisdiction prohibits or excuses the City or Developer, as applicable, from undertaking any contractual commitment to perform any act hereunder, this Agreement shall remain in full force and effect, but the provisions requiring such action shall be deemed to permit the City or Developer, as applicable, to take such action at its discretion, if such a construction is permitted by law.

IN WITNESS THEREOF, the parties have caused these presents to be executed the day and year written hereinbelow,

The signature page has been signed and is being air-expressed to us. It will
be in the packet

DEVELOPER: WAL-MART STORES, INC.
An Arkansas Corporation

By: _____

Date: _____

STATE OF _____)
)SS
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2003, by _____, as _____ of WAL-MART STORES, INC., an Arkansas corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

CITY: CITY OF GOODYEAR, a MUNICIPAL CORPORATION

By: _____
 City Manager

Date: _____

STATE OF ARIZONA)
)SS
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2003, by _____, as City Manager of **CITY OF GOODYEAR, a MUNICIPAL CORPORATION**, on behalf of the corporation.

Notary Public

My Commission Expires:

Approved as to Form

City Attorney's Office

EXHIBIT "A"

The Southeast quarter of the Northeast quarter of Section 6, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT that portion of the Southeast quarter of the Northeast quarter described as follows:

COMMENCING at the Northeast corner of said Section 6;

THENCE South 00 degrees 07 minutes 24 seconds East, a distance of 1331.38 feet to the point of beginning;

THENCE North 89 degrees 48 minutes 41 seconds West, a distance of 1300.88 feet;

THENCE South 00 degrees 07 minutes 24 seconds East, a distance of 66.59 feet;

THENCE South 83 degrees 48 minutes 16 seconds East, a distance of 1157.70 feet;

THENCE South 42 degrees 10 minutes 53 seconds East, a distance of 29.76 feet;

THENCE South 00 degrees 13 minutes 52 seconds East, a distance of 252.04 feet;

THENCE North 89 degrees 41 minutes 16 seconds East, a distance of 89.78 feet;

THENCE South 00 degrees 07 minutes 24 seconds East, a distance of 855.26 feet;

THENCE South 89 degrees 48 minutes 41 seconds East, a distance of 40.00 feet;

THENCE North 00 degrees 07 minutes 24 seconds West, a distance of 1316.15 feet to the point of beginning.

Kimley-Horn and Associates, Inc.
7600 N. 15th Street Suite #250
Phoenix, Arizona 85020
Phone Number (602) 944-5500

Date: December 5, 2003
SUPERCENTER, GOODYEAR, ARIZONA
195SC, Store 5369-00
KHA JOB No. 091502050
KHA FILE - K:\Civil\91502050\OP\Clopc-offsites-COG12W.xls

Opinion of Probable Construction Cost

Goodyear Supercenter, Goodyear, Arizona at SWC Estrella Pkwy and I-10
Option A - 12" Water Line north of Roosevelt to main entrance to project

Note:

Since Kimley-Horn and Associates Inc has no control over the cost of labor, materials, equipment, or services furnished by others, or over methods of determining price, or over competitive bidding or market conditions, any and all opinions as to cost rendered herein, including but not limited to opinions as to the costs of construction materials, shall be made on the basis of experience and best available data. Kimley-Horn and Associates Inc cannot and does not guarantee that proposals, bids, or actual costs will not vary from the opinions of costs shown herein. Contingencies have been included to account for unforeseen items and are not intended to account for market fluctuation in unit pricing. Contingencies reflect a level of uncertainty consistent with the stage of the project.

Water Development Fee based upon Ordinance 95-530

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Opinion of Probable Construction Cost

Goodyear Supercenter, Goodyear, Arizona at SWC Estrella Pkwy and I-10
ESTRELLA PARKWAY OFFSITE SUB-TOTAL

Date: December 5, 2003
SUPERCENTER, GOODYEAR, ARIZONA
195SC, Skore 5369-00
KHA JOB No. 091502050
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\$2,023,823	\$1,432,889	\$539,705
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Kimley-Horn and Associates, Inc.
7600 N. 15th Street Suite #250
Phoenix, Arizona 85020
Phone Number (602) 944-5500

Date: December 5, 2003
SUPERCENTER, GOODYEAR, ARIZONA
195SC, Store 5359-00
KHA JOB No. 091502050
KHA FILE - K:\Civil\191502050\OP\Clpc-offsites-COG12W.xls

Opinion of Probable Construction Cost

Goodyear Supercenter, Goodyear, Arizona at SWC Estrella Pkwy and I-10

Roosevelt Street

Earthwork - South side of Section line only

Site prep, clearing, grubbing, and removal

Grading (Cut/Fill/Compaction)

Final Grading

Sub-total

25% Contingency

Roosevelt Street Earthwork Sub-Total

Storm Drainage - South side of Section Line only

Erosion control system

Sub-total

25% Contingency

Roosevelt Street Storm Drainage Sub-Total

Landscaping - south side of Section line only

Irrigation - Median

Landscaping - Median

Sub-total

25% Contingency

Roosevelt Street Landscaping and Irrigation Sub-total

Utilities - Shared cost of Mainline

12" DIP w/ Fittings - 50% of project frontage of 1,256 LF

12" Gate Valve, Box and Cover - 2 Total

8" Stubs to the South - 2 stubs of 58 LF each

8" Gate Valve, Box and Cover - 2 Total

Fire Hydrant (complete) - 3 Total

Sub-total

25% Contingency

Roosevelt St Utilities Sub-total

Roadway and Paving - south side of Section Line only

Asphalt Pavement (incl. Base)

8" Sidewalk

Signing and Marking - 50%

Street Lights - 14 total

8" Vertical Curb & Gutter - MAG 220 Type A - South side of Median

Sub-total

25% Contingency

Roosevelt St Offsite Roadway and Paving Improvement Sub-total

Offsite Improvement Cost Roosevelt Street Subtotal

Contractor's Overhead and Profit (10%)

ROOSEVELT STREET OFFSITE SUB-TOTAL

OFFSITE TOTAL

Development Fees

Transportation (See separate sheet)

Water Development Fee (see separate sheet)

Total Development Fee Credits

Estimated Overage

			Development Fee Credit	Cost Recovery
1.25	AC	\$850.00	\$1,063	\$1,063
2.00	CY	\$8.00	\$16,000	\$16,000
6.00	SY	\$1.00	\$6,000	\$6,000
			\$0	\$23,063
			\$0	\$5,766
			\$0	\$28,828

1	LS	\$10,000.00	\$10,000	\$10,000
			\$0	\$10,000
			\$0	\$2,500
			\$0	\$12,500

3.400	SF	\$0.65	\$2,210	\$2,210
3.400	SF	\$1.50	\$5,100	\$5,100
			\$7,310	\$7,310
			\$1,828	\$1,828
			\$0	\$9,138

628	LF	\$45.00	\$28,238	\$28,238
1	EA	\$1,200.00	\$1,200	\$1,200
116	EA	\$49.00	\$5,684	\$5,684
2	EA	\$800.00	\$1,600	\$1,600
1.5	EA	\$2,500.00	\$3,750	\$3,750
			\$40,472	\$40,472
			\$10,118	\$10,118
			\$0	\$50,589

2.975	SY	\$18.00	\$53,550	\$53,550
0	SF	\$2.00	\$0	\$0
1	LS	\$7,500.00	\$7,500	\$7,500
7	EA	\$52,500	\$367,500	\$367,500
782	LF	\$13.00	\$10,169	\$10,169
			\$123,719	\$123,719
			\$30,930	\$30,930
			\$0	\$154,649

			\$255,704	\$255,704
			\$25,570	\$25,570
			\$0	\$281,274

			\$2,305,097	\$2,305,097
			\$1,432,899	\$1,432,899

256,965	SF	\$1,371.00	\$352,299.02	\$352,299.02
1	LS	\$35,640.00	\$35,640.00	\$35,640.00
			\$387,939.02	\$387,939.02
			\$1,044,959.78	\$1,044,959.78

Goodyear, AZ Store No 5369-00
Water Development Fees

Parcel A	Type	No	Size	Water Development Fee/foot	Total WD Fee
A	Domestic	1	2"	\$3,480	\$3,480
	Irrigation	1	2"	\$3,480	\$3,480
	Irrigation	1	1.5"	\$2,160	\$2,160
B	Domestic	1	2"	\$3,480	\$3,480
	Irrigation	1	1"	\$1,680	\$1,680
C	Domestic	0	2"	\$3,480	\$0
	Irrigation	0	1.5"	\$2,160	\$0
D	Domestic	1	2"	\$3,480	\$3,480
	Irrigation	1	1.5"	\$2,160	\$2,160
E	Domestic	1	2"	\$3,480	\$3,480
	Irrigation	1	1.5"	\$2,160	\$2,160
A	Domestic	1	1"	\$1,680	\$1,680
	Irrigation	1	1"	\$1,680	\$1,680
ADOT Basin	Irrigation	1	1"	\$1,680	\$1,680
ADOT Ramp	Irrigation	1	1"	\$1,680	\$1,680
Estrella Parkway Median	Irrigation	1	1"	\$1,680	\$1,680
Roosevelt Street Median	Irrigation	1	1"	\$1,680	\$1,680
				Total	\$35,640

Note: Parcel C is seller retained and not a part of this project

**Goodyear, AZ Store No 5369-00
Building Areas**

Name	Sq Ft
Wal Mart	226,483
Parcel B	8,000
Parcel D	4,300
Parcel E	18,000
Gas Kiosk	182
Total	<hr/> 256,965